tionship of husband and wife existed between the driver of the vehicle and the other occupant will not render the negligence of the husband imputable to the wife. *Indianapolis St. R. Co.* v. *Johnson,* 163 Ind. 518, 72 N. E. 571. When, however, the parties are engaged in a joint enterprise, the contributory negligence of one party is imputed to the other if within the scope of the enterprise. *Beaucage* v. *Mercer* (1910), — Mass. —, 92 N. E. 774.

DAMAGES—PERSONAL INJURIES—PREDISPOSITION TO DISEASE.—Plaintiff was employed in defendant's mill, and was injured by a defective machine, the injury resulting in appendicitis. The defendant claimed that the appendicitis existed before the injury, and that the injury merely brought about an aggravation of the disease already existing, for which defendant should not be held liable. *Held,* one suffering from a disease, or predisposition to disease, may recover for the aggravation of such condition, caused by another's negligence. *Bloomquist* v. *Minneapolis Furniture Co.* (1910), — Minn. —, 127 N. W. 481.

Where one already diseased has suffered from a personal injury, the mere fact of personal condition will not deny him all the damages suffered from the accident. *Montgomery etc. R. Co.* v. *Mallette,* 92 Ala. 209, 9 South. 363; *Louisville & N. R. Co.* v. *Jones,* 83 Ala. 376, 3 South. 902. The rule remains the same whether the injury supervenes and proximately results from defendant's wrong, or whether the disease existed at the time of the injury and was aggravated by it. *Ohio etc. R. Co.* v. *Hecht,* 115 Ind. 443, 17 N. E. 297. Plaintiff's intestate died of pneumonia alleged to have been caused by injuries received in a railroad accident, and it was held that if deceased was injured through the negligence of defendant company, and such injury caused or aggravated the disease so that death resulted on that account, plaintiff is entitled to recover, unless she would have died from the disease as an independent cause. *Louisville & N. R. Co.* v. *Jones,* supra. In an action for personal injuries, it was shown that plaintiff's arm had been previously injured in a saw mill but it was held that plaintiff should have damages resulting from the aggravation which produced stiffness of his arm. *Montgomery & E. Ry. Co.* v. *Mallette,* supra. A tort to health already impaired cannot be redressed except by giving damages for any further impairment and for any obstruction occasioned by the tort to recovery from existing maladies. To cause sickness wrongfully, or to aggravate or protract it, is an injury to health for which damages are recoverable. *Bray* v. *Latham,* 81 Ga. 640, 8 S. E. 64. The fact that one was suffering from a disease when injured does not preclude recovery for the injuries, as, though they were aggravated thereby, the negligence causing the accident is the proximate cause of the injury. *Louisville, N. A. & C. Ry. Co.* v. *Snyder,* 117 Ind. 435, 20 N. E. 284, 10 Am. St. Rep. 60, 3 L. R. A. 434. It is a proper charge to a jury that if plaintiff had a constitutional tendency to disease, and the injury was the proximate cause of aggravating that tendency, recovery might be had. *Smalley* v. *City of Appleton,* 75 Wis. 18, 43 N. W. 826. But it has been held that if defendant had a right to enter upon the premises, and did not know of the nervous temperament of plaintiff, and used loud

and abusive language which caused a severe nervous shock to plaintiff and which she alleges resulted in a nervous disease, damages are not recoverable, as such an injury is not the natural and probable consequence of defendant's act. *Braun* v. *Craven,* 175 Ill. 401, 51 N. E. 657, 42 L. R. A. 199.

DISCOVERY—DISCOVERY AND INSPECTION OF BURIED HUMAN BODY.—In an action to recover damages for the death of one Danahy, who is alleged to have died from injuries received in a collision with defendant's automobile, defendant prays discovery of the body of Danahy to ascertain the cause of his death. Code Civ. Proc., § 803, provides that a court of record has power to compel a party to an action pending therein to produce for inspection any article or property in his possession or under his control relating to the merits of the action or of the defense. *Held,* that the application should be denied. *Danahy* v. *Kellogg* (1910), 126 N. Y. Supp. 444.

In equity the general rule is that a bill will lie by either party to an action at law to have a discovery of matter material to the claim or defense. *Reynolds* v. *Burgess Co.,* 71 N. H. 332, 51 Atl. 1075, 93 Am. St. Rep. 535, 57 L. R. A. 949; *Wilson* v. *Miller,* 104 Va. 446, 51 S. E. 837. In many states statutes have been passed regulating discovery. Some of these acts expressly provide that a bill in equity for discovery shall in no way be affected thereby. *Mahone* v. *Central Bank,* 17 Ga. 111. In case the statute does not so provide, it is held that they do not take away the jurisdiction of the court of equity. *Nixon* v. *Lumber Co.,* 150 Ala. 602, 607, 43 South. 805, 9 L. R. A. (N. S.) 1255; *Post* v. *Toledo etc. Co.,* 144 Mass. 341, 13 N. E. 540, 59 Am. Rep. 86. Contra. *Cleveland* v. *Burnham,* 60 Wis. 16, 17 N. W. 126; *Turnbull* v. *Crick,* 63 Minn. 91, 65 N. W. 135. In other states statutes expressly abolish bills of discovery. *Baylis* v. *Bullock Mfg. Co.,* 59 App. Div. 576, 69 N. Y. Supp. 693. As to what may be the subject matter of discovery, the general rule is that one may have discovery of matter material to the claim or defense. *Wilson* v. *Miller,* supra. In *Reynolds* v. *Burgess,* supra, discovery was had of broken machinery. Facts resting in the knowledge of the defendant, books, papers or copies thereof in his possession may also be the subject of discovery. *Little* v. *Cooper,* 10 N. J. Eq. 273; *Utah Const. Co.* v. *Mont. R. Co.,* 145 Fed. 981. The authorities are in conflict on the question of the power of the court to order a physical examination of a party before trial. By the weight of authority the court may make such an order. *Miami Co.* v. *Baily,* 37 Ohio St. 104; *Wanek* v. *Winona,* 78 Minn. 98, 80 N. W. 851, 46 L. R. A. 448. Contra. *Joliet Ry. Co.* v. *Call,* 143 Ill. 177, 32 N. E. 389; *Stack* v. *N. Y. Ry. Co.,* 177 Mass. 155, 83 Am. Rep. 269, 52 L. R. A. 328. The question in the principal case, whether a human body is a proper subject matter for discovery, came before the United States Circuit Court in *Mut. Life Ins. Co.* v. *Greisa,* 156 Fed. 398, and the court in that case ordered the body to be exhumed for examination.

EVIDENCE—PRESUMPTIONS—LAW OF ANOTHER STATE.—Plaintiff sued defendant to receive the value of his services rendered in the capacity of a physician and surgeon. He did not state in his complaint where the services were rendered. Defendant demurred for the failure of the complaint to